

CIVIL SERVICE COMMISSION MINUTES

July 19, 2000

A regular meeting of the Civil Service Commission was held at 2:45 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gordon Austin
Roy Dixon
Barry Newman

Comprising a quorum of the Commission

Absent were:

Sigrid Pate
Mary Gwen Brummitt

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
July 19, 2000

2:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:45 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
11			5

COMMENTS Motion by Dixon to approve all items not held for discussion; seconded by Austin. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Austin: Richard Pinckard, Esq. on behalf of **Roberto Pe**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Department.

B. Commissioner Pate: Richard Pinckard, Esq., on behalf of **Charlie Peterson**, Deputy Sheriff, appealing an Order of Discipline consisting of removal of Corporal status and reassignment by the Sheriff's Department.

REGULAR AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda Items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the special meeting of June 28, 2000.

Approved.

CONFIRMATION OF ASSIGNMENTS AND REASSIGNMENTS

Assignments

2. Commissioner Dixon: Todd Tappe, Esq., on behalf of **George Dean**, Correctional Deputy Probation Officer II, appealing an Order of Suspension and Charges from the Department of Probation.

Confirmed.

Reassignments

3. Commissioner Austin as hearing officer in the appeal of **Peggy Torralva** from an Order of Demotion and Charges from the Department of the Public Defender. Commissioner Pate previously assigned.

Confirmed.

4. Commissioner Brummitt as hearing officer in the Selection Process appeal of **Joann DeBartolo** regarding her non-selection by the Probation Department for the classification of Correctional Deputy Probation Officer I in the Probation Department. Commissioner Pate previously assigned.

Confirmed.

WITHDRAWALS

5. Commissioner Dixon: **Roberta Faford**, former Quality Assurance Specialist, appealing an Order of Suspension and Charges from the Health and Human Services Agency.

Withdrawn.

DISCIPLINES

6. Commissioner Austin: Richard Pinckard, Esq. on behalf of **Roberto Pe**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I, Inefficiency (left assigned beat approximately 50 minutes early without notifying or obtaining permission from supervisor); Cause II - Inefficiency (taking a marked patrol car home, which contained weapons and ammunition); Cause III - Dishonesty (untruthful entry in Daily Patrol Log); Cause IV - Dishonesty; Cause V - Inefficiency (failure to appear for assigned shift); and Cause VI - Acts which are incompatible with and/or inimical to the public service.

Employee was employed by the Sheriff's Department for approximately 11 years and had no record of prior discipline. At the time of his termination, Employee held the rank of Corporal for which he received premium pay and acted as a Field Training Officer. At the hearing, Employee and the Department stipulated to the facts set forth in the Order of Termination.

On December 2, 1999, Employee left his shift approximately 50 minutes early without requesting or receiving permission. Additionally, Employee indicated in his daily patrol log that he completed his entire shift. He then gave the log to a fellow deputy who complied with his request to deliver the log to the Station, however, before delivering the log, the deputy warned Employee that he could be disciplined if the false entry was discovered. Thereupon, Employee took the marked patrol car (containing special weaponry) to his condominium and parked it in the common area parking lot. The following day, Employee failed to appear for his work shift, notifying his supervisor by phone approximately one hour and twenty minutes after the work shift had begun. The missing patrol car caused alarm at the Station, committing significant resources to locating the missing vehicle.

Employee admitted to his misconduct, explaining that it was the result of unusual stress, both personal and professional. However, Employee's deception was premeditated and significant, moreover, involving another deputy in the deception. The deception resulted in a waste of public resources, and his conduct was compounded by poor judgment. While Employee's stressors were significant, they were not uncommon. Many other deputies face similar stressors without resorting to dishonesty and dereliction of duty. The Department has consistently argued before the CSC that dishonesty is one of the most significant causes of discipline, and undermines the Department's and the public's trust in a deputy. The Department also argued that because employee discipline records are subject to Pitchess motions in criminal trials, incidents of dishonesty severely damage a deputy's credibility as a witness. Employee was found guilty of Cause I, Cause II, Cause III, Cause IV, Cause V and Cause VI. It is therefore recommended that the Order of Termination be affirmed; the proposed decision shall become effective upon the date of approval by the Civil Service Commission; and that the Commission approve and file this report.

**Motion by Austin to approve Findings and Recommendations;
seconded by Newman. Carried.**

7. Commissioner Pate: Richard Pinckard, Esq., on behalf of **Charlie Peterson**, Deputy Sheriff, appealing an Order of Discipline consisting of removal of Corporal status and reassignment by the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - Conduct unbecoming an officer of the County of San Diego (engaged in a dispute with a deputy in the Vista Sheriff's Station); Cause II - Discourteous treatment of the public or other employees (failure to be tactful and control his temper as required by policy); and Cause III - Acts which are incompatible with and/or inimical to the public service.

Employee has been employed as a Deputy with the Sheriff's Department for approximately 12 years. At the time of the incident at issue, Employee was assigned to the Vista Sheriff's Station. The Department and Employee have stipulated to the allegations contained in the Order of Discipline and Charges, and Employee's appeal was limited to challenging the level of discipline imposed by the Department.

The Vista Station Command originally recommended a 2-day suspension in addition to the discipline contained in the Order of Discipline and Charges (removal of corporal premium pay and reassignment) for Employee's involvement in the incident on December 21, 1999. However, the Skelley Officer recommended modifying the discipline by eliminating the 2-day suspension. The Vista Station Command rejected the Skelley Officer's recommendation and reinstated the 2-day suspension. Finally, the Sheriff agreed with the Skelley Officer and rejected the 2-day suspension, but approved the removal of the corporal premium pay and the reassignment.

Employee argued that his conduct was an isolated incident in twelve years of exemplary employment with the Department. He testified that it might have been caused, in part, by extraordinary personal and professional stress. The Department presented the testimony of the Undersheriff. He testified that the primary function of a Corporal within the Department is to act as a field training officer and as a role model. Accordingly, the Undersheriff testified that it was appropriate to remove Employee's role model designation because of his assault on another deputy, and was reassigned for the purpose of separating Employee from the other deputy involved in the dispute. The hearing officer affirmed that the level of discipline selected by the Department was appropriate due to the seriousness of an altercation between two on-duty deputies. It is the hearing officer's hope that Employee will heed this decision as a stern warning and temporary setback, and apply himself to regaining or exceeding his Corporal designation. The Department proved the charges contained in Causes I through III of the Order of Discipline and Charges. It is therefore recommended that the Order of Discipline and Charges be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Dixon to approve Findings and Recommendations; seconded by Newman. Carried.

SELECTION PROCESS

Findings

8. **Michael Wawar**, appeal of removal of his name by the Department of Human Resources from the employment list for Deputy Sheriff.

9. **Kathy Knopf**, appeal of removal of her name by the Department of Human Resources from the employment list for Correctional Deputy Probation Officer I.

10. **Ada Long-Croom**, appeal of removal of her name by the Department of Human Resources from the employment list for Correctional Deputy Probation Officer I.

RECOMMENDATION: Ratify item Nos. 8-10. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item Nos. 8-10 ratified.

LIBERTY INTEREST

Complaints

11. **Damon Colclough**, Protective Services Worker II, Health and Human Services Agency, requesting a Liberty Interest hearing regarding his failure of probation in the classification of Protective Services Supervisor in the Health and Human Services Agency.

RECOMMENDATION: Deny Request.

Employee requested a name-clearing hearing because he felt that any future job prospects could be tainted by his failure of probation in the classification of Protective Services Supervisor.

HHSA, represented by Pat Pickford, explained that Employee is not damaged to the extent that he cannot earn a living because he is still employed by the Agency.

Ralph Shadwell, Deputy County Counsel, explained that there are two concepts he wanted to clarify: 1) Employee's property interest; and 2) Employee's liberty interest. He explained that because Employee was in a probationary status, he did not have a property interest in the position. Further, the only disclosure of Employee's failure of probation, is a memo from the Agency stating that Employee failed to complete the duties of the job. Mr. Shadwell offered that this memo does not infringe on Employee's liberty interest. He also advised that a signed release from Employee would be needed should there be an inquiry into the reasons why Employee failed probation.

Motion by Dixon to accept staff recommendation; seconded by Newman. Carried.

OTHER MATTERS

Seal Performance Appraisals

12. Wendell Prude, S.E.I.U. Local 2028, on behalf of **Lynn B. Rowland**, Eligibility Supervisor, Health and Human Services Agency, requesting the sealing of Mr. Rowland's performance appraisal for the period May 9, 1998 to May 9, 1999.

RECOMMENDATION: Grant Request.

Staff recommendation approved.

Extension of Temporary Appointments

13. Alternate Public Defender

1 Public Defender Investigator Trainee (Brian Blackwood)

RECOMMENDATION: Ratify Item No. 13.

Item No. 13 ratified.

14. Public Input.

ADJOURNMENT: 3:15 p.m.